

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1412

Introduced by Senator Morrow

February 22, 2006

An act to add Section 66015.8 to the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 1412, as amended, Morrow. Public postsecondary education: Student Bill of Rights.

~~(1) Existing~~

Existing law establishes the various segments of the public higher education system in the state. These segments include the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges.

This bill would request the Regents of the University of California, and direct the Trustees of the California State University and the Board of Governors of the California Community Colleges, to develop guidelines and implement specified principles, relating to academic freedom, of a Student Bill of Rights. ~~Among other things, the bill would require the audiotaping of all meetings pertaining to faculty hiring, promotion, and tenure. Because this provision would create new duties for community college districts, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~

~~Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66015.8 is added to the Education
2 Code, to read:

3 66015.8. ~~(a)~~The Legislature finds and declares, with respect
4 to public institutions of higher education, as follows:

5 *(a) The guiding philosophy of all public universities and*
6 *colleges within the State of California shall be that expressed in*
7 *the University of California's Academic Personal Manual, as in*
8 *effect from 1934 to 2003, inclusive, as follows:*

9 *"The function of the university is to seek and to transmit*
10 *knowledge and to train students in the processes whereby truth is*
11 *to be made known. To convert, or to make converts, is alien and*
12 *hostile to this dispassionate duty. Where it becomes necessary, in*
13 *performing this function of a university, to consider political,*
14 *social, or sectarian movements, they are dissected and examined,*
15 *not taught, and the conclusion left, with no tipping of the scales,*
16 *to the logic of the facts."*

17 *"The university is founded upon faith in intelligence and*
18 *knowledge and it must defend their free operation. It must rely*
19 *upon truth to combat error. Its obligation is to see that the*
20 *conditions under which questions are examined are those which*
21 *give play to intellect rather than to passion. Essentially, the*
22 *freedom of the university is the freedom of competent persons in*
23 *the classroom. In order to protect this freedom, the university*
24 *assumes the right to prevent exploitation of its prestige by*
25 *unqualified persons or by those who would use it as a platform*
26 *for propaganda."*

27 ~~(1)~~

28 *(b) The central purposes of the university are the pursuit of*
29 *truth, the discovery of new knowledge through scholarship and*

1 research, the study and reasoned criticism of intellectual and
2 cultural traditions, the teaching and general development of
3 students to help them become creative individuals and productive
4 citizens of a pluralistic democracy, and the transmission of
5 knowledge and learning to a society at large.

6 ~~(2)~~

7 (1) Free inquiry and free speech within the academic
8 community are indispensable to the achievement of these goals,
9 the freedoms to teach and to learn depend upon the creation of
10 appropriate conditions and opportunities on the campus as a
11 whole as well as in the classrooms and lecture halls, and these
12 purposes reflect the values of pluralism, diversity, opportunity,
13 critical intelligence, openness, and fairness that are the
14 cornerstones of American society.

15 ~~(3)~~

16 (2) From its first formulation in the 1910 General Report of
17 the Committee on Academic Freedom and Tenure of the
18 American Association of University Professors, the concept of
19 academic freedom has been premised on the idea that human
20 knowledge is the pursuit of truth, that there is no humanly
21 accessible truth that is not, in principle, open to challenge.

22 ~~(4)~~

23 (3) Academic freedom is most likely to thrive in an
24 environment of intellectual diversity that protects and fosters
25 independence of thought and speech, and that academic freedom
26 protects the intellectual independence of professors, researchers,
27 and students in the pursuit of knowledge and the expression of
28 ideas from interference by legislators or authorities within the
29 institution itself.

30 (c) *To secure the intellectual independence of students, and to*
31 *protect the principles of intellectual diversity, the Regents of the*
32 *University of California are requested to, and the Trustees of the*
33 *California State University and the Board of Governors of the*
34 *California Community Colleges are directed to, develop*
35 *guidelines and implement the following principles of the Student*
36 *Bill of Rights:*

37 ~~(5)~~

38 (1) Intellectual independence means the protection of students
39 from the imposition of any orthodoxy of a political, religious, or
40 ideological nature. To achieve the intellectual independence of

1 students, teachers should not take unfair advantage of their
2 position of power over a student by indoctrinating him or her
3 with the teacher's own opinions before a student has had ~~an~~
4 ~~opportunity~~ *sufficient educational opportunity to* fairly to
5 examine other opinions upon the matters in question, and before
6 a student has sufficient knowledge and life experience to be
7 entitled to form any definitive opinion of his or her own, and
8 students should be free to take reasoned exception to the data or
9 views offered in any course of study and to reserve judgment
10 about matters of opinion.

11 ~~(b) To secure the intellectual independence of students, and to~~
12 ~~protect the principles of intellectual diversity, the Regents of the~~
13 ~~University of California are requested to, and the Trustees of the~~
14 ~~California State University and the Board of Governors of the~~
15 ~~California Community Colleges are directed to, develop~~
16 ~~guidelines and implement the following principles of the Student~~
17 ~~Bill of Rights:~~

18 ~~(1)~~

19 (2) Students shall be graded solely on the basis of their
20 reasoned answers and appropriate knowledge of the subjects and
21 disciplines they study, attendance, class participation, and other
22 generally accepted grading criteria, not on the basis of their
23 political or religious beliefs. Furthermore, each college and
24 university should have well-known and publicly accessible
25 policies and procedures available to students who believe that
26 they have been penalized for their social, political, or ideological
27 beliefs.

28 ~~(2)~~

29 (3) Curricula and reading lists in the humanities and social
30 sciences shall respect the uncertainty and unsettled character of
31 all human knowledge in these areas, and provide students with
32 dissenting sources and viewpoints. While teachers are and should
33 be free to pursue their own findings and perspectives in
34 presenting their views, they should consider and make their
35 students aware of other viewpoints. Academic disciplines should
36 welcome a diversity of approaches to unsettled questions.

37 ~~(3)~~

38 (4) Exposing students to the spectrum of significant scholarly
39 viewpoints on the subjects examined in their courses is a major
40 responsibility of faculty. Faculty shall not use their courses or

1 their positions for the purpose of political, ideological, religious,
2 or antireligious indoctrination *or propagandizing*.

3 ~~(4)~~

4 (5) The selection of speakers, allocation of funds for speakers'
5 programs, and other student activities shall observe the principles
6 of academic freedom and promote intellectual pluralism.

7 ~~(5)~~

8 (6) An environment conducive to the civil exchange of ideas
9 being an essential component of a free university, the obstruction
10 of invited campus speakers, the destruction of campus literature,
11 or any other effort to obstruct this exchange shall not be
12 tolerated.

13 ~~(6)~~

14 (7) Knowledge advances when individual scholars are free to
15 reach their own conclusions about whether research has validated
16 a particular method or theory.

17 ~~(7) Formal or informal quota systems~~

18 (8) *Formal or informal quota systems, regarding cultural,*
19 *racial, religious, ethnic, political, ideological, and other*
20 *aggregate characterizations of person*, shall not be used in
21 making decisions regarding faculty hiring, promotions, and
22 tenure.

23 ~~(8)~~

24 (9) All faculty shall be hired, fired, promoted, and granted
25 tenure on the basis of their competence *in research and teaching*
26 and appropriate knowledge in the fields of their expertise, and, in
27 the humanities, the social sciences, and the arts, with a view
28 toward fostering a plurality of methodologies and perspectives.
29 No faculty member shall be hired or fired or denied promotion or
30 tenure solely on the basis of his or her political or religious
31 beliefs.

32 ~~(9)~~

33 (10) No faculty member shall be excluded from tenure, search,
34 or hiring committees on the basis of his or her political or
35 religious beliefs.

36 ~~(10) (A) All meetings pertaining to faculty hiring, promotion,~~
37 ~~and tenure must be audiotaped. The audiotapes shall be~~
38 ~~maintained and made available for review by appropriate~~
39 ~~authorities for compliance with state and federal laws and~~
40 ~~systemwide or campus policies. The audiotapes shall be~~

1 maintained in a manner that affords the same privacy protections
2 as other personnel-related materials.

3 (B) At his or her own expense, any person under consideration
4 for faculty hiring, promotion, or tenure may arrange for
5 transcription of that portion of the meeting by a certified court
6 reporter. The court reporter shall be instructed to refer to all
7 participants in the meeting as “Speaker A,” “Speaker B,” et
8 cetera, rather than by their actual names or titles. The campus or
9 academic department conducting the meeting shall inform the
10 person under consideration of this right at least seven days prior
11 to the meeting so as to allow sufficient time for that person to
12 arrange for the certified court reporter. The services of the
13 certified court reporter shall be paid for by the person under
14 consideration.

15 SEC. 2. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.